

**Fink Zausmer**  
A PROFESSIONAL CORPORATION

31700 Middlebelt Road

Suite 150

Farmington Hills, MI 48334-2374  
(248) 851-4111 Fax (248) 851-0100David H. Fink  
Mark J. Zausmer  
Avery K. Williams  
Michael L. Caldwell  
Ruben AcostaGary K. August  
Marshell E. Jones  
Karen Liberty Ludden  
Amy M. Simer  
Barbara B. Vacketta  
Coquette S. Wilson**Of Counsel**  
David A. Domzal\*\*  
Eli Grier  
John T. Peters, Jr.  
Alan D. Wasserman\*\*\*  
Harvey I. Wax\*On Leave  
\*\*Also Admitted in Illinois and Ohio  
\*\*\*Also Admitted in District of Columbia

147558

**Detroit Office:**  
2430 First National Building  
Detroit, MI 48226-3535  
(313) 963-3873  
Fax (313) 961-6870**Lansing Office:**  
600 West St. Joseph  
Lansing, MI 48933-2265  
(517) 371-7444  
Fax (517) 371-3207**Email:**  
contact @ lawsite.com  
**Internet URL Address:**  
http://www.lawsite.com**TELECOPIER TRANSMITTAL COVER SHEET**

Please deliver the following pages to:

**Name:** Francis J. Biros  
Philip M. Moilanen  
Kurt Lindland**Sender:** Michael L. Caldwell**Company:** U.S. Dept. of Justice  
Bullen, Moilanen  
USEPA Region 5**Client/Matter:** 71**Pages Transmitted:** 3  
(including cover sheet)**Date:** October 6, 1997**FAXED TO:** (202) 616-6584 - Biros  
(517) 788-8507 - Moilanen  
(312) 486-0747 Lindland**Original:**

Will not follow X Will be Mailed Will be delivered

**COMMENTS:**

---

If you do not receive all pages transmitted, please call  
the fax operator at (810) 851-4111 as soon as possible.

---

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential or protected from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the Postal Service.

Thank you.

**Fink Zausmer**

A PROFESSIONAL CORPORATION

31700 Middlebelt Road

Suite 150

Farmington Hills, MI 48334-2374

(248) 851-4111 Fax (248) 851-0100

David H. Fink  
Mark J. Zausmer  
Avery K. Williams  
Michael L. Caldwell  
Ruben Acosta

Gary K. August  
Marshella E. Jones  
Karen Liberty Ludden  
Amy M. Siner  
Barbara B. Vackert  
Coquese S. Wilson

**Of Counsel**

David A. Domasi\*\*  
Eli Grier  
John T. Peters, Jr.  
Alan D. Wasserman\*\*\*  
Harvey I. Wax

**Detroit Office:**  
2430 First National Building  
Detroit, MI 48226-3535  
(313) 963-3873  
Fax (313) 961-6879

**Lansing Office:**  
600 West St. Joseph  
Lansing, MI 48933-2265  
(517) 371-7444  
Fax (517) 371-3207

**Email:**  
CONTACT @ lawsite.com  
Internet URL Address:  
<http://www.lawsite.com>

October 6, 1997

\*On Leave  
\*\*Also Admitted in Illinois and Ohio  
\*\*\*Also Admitted in District of Columbia

**VIA FACSIMILE AND U. S. MAIL**

Mr. Francis J. Biros  
Environmental Enforcement Section  
United Department of Justice  
P.O. Box 7611  
Washington DC 20044-7611

RE: **Albion-Sheridan Township Landfill Superfund Site**  
Our File: 71

Dear Mr. Biros:

I am in receipt of your recent correspondence which responds to Decker Manufacturing Corporation's ("Decker") settlement proposal regarding the U.S. EPA's past costs. You indicate that the United States cannot accept Decker's offer to pay 22% of U.S. EPA's unreimbursed past costs, but is willing to provide Decker with an additional limited amount of time to seek contribution from Cooper and Corning. As you know, Decker has already proposed that the three alleged generator PRPs and the City of Albion take part in pre-litigation ADR in hopes of resolving the internal allocation disagreements among the PRPs. Although we have not heard back from Cooper and Corning, the City is interested in participating in some form of ADR. We will continue to follow up on this proposal. Consistent with your correspondence, Decker will also attempt to reach some agreement with Cooper and Corning regarding payment of the U.S. EPA's alleged unreimbursed past costs.

I must note, however, that Decker's efforts in this regard are greatly hampered by U.S. EPA's decision not to demand payment of its unreimbursed past costs from Cooper and Corning. Your letter justifies this distinction based on U.S. EPA's conclusion that Decker delayed complying with the UAO. I will not revisit the debate over whether Decker ever delayed complying with the UAO. Obviously, Decker believes that it fully complied with the

# Fink Zausmer

A PROFESSIONAL CORPORATION

Mr. Francis J. Biros

October 6, 1997

Page 2

UAO from the start. Decker's internal dispute with Cooper and Corning over allocation of UAO-related costs has never prejudiced U.S. EPA or affected the timely completion of the work required by the UAO.

Putting the debate over Decker's past compliance efforts aside, even U.S. EPA appears to agree that Decker is currently in compliance with the UAO. Decker has already entered into purchase agreements with the owners of the property adjoining the landfill which will be used to complete the remedial work at the site. The cost of acquiring this land will be over \$105,000. Decker is also committed to performing a number of operation and maintenance tasks, the costs of which will greatly exceed Decker's equitable share. There is not any basis for U.S. EPA's decision to continue to distinguish between the three parties and seek reimbursement for its past costs from Decker, only. While U.S. EPA may or may not agree that the work Decker has agreed to perform reflects Decker's equitable share, U.S. EPA does not typically involve itself in internal PRP allocation disputes once compliance issues have been resolved.

Not only is such involvement inappropriate, it is contrary to public's interest in obtaining reimbursement for the funds U.S. EPA has expended. Although Decker will attempt to convince Cooper and Corning to contribute toward reimbursement of costs that have not been demanded of them, I cannot imagine that they will voluntarily do so. As Decker's settlement offer demonstrates, Decker is willing to pay a fair share of U.S. EPA's past costs. Decker is not, however, willing to subsidize Cooper and Corning, much larger companies whose involvement at the site dwarfs that of Decker, by paying their share. Decker would again request that the United States demand payment of its unreimbursed costs from Cooper and Corning.

I will contact you as soon as I hear anything from Cooper and Corning.

Very truly yours,

FINK ZAUSMER, P.C.



Michael L. Caldwell

MLC:ekb

cc: Kurt Lindland, Esq.  
Philip M. Moilanen, Esq.